

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 515

A bill to amend 1975 PA 238, entitled
"Child protection law,"
by amending section 7 (MCL 722.627), as amended by 1995 PA 225,
and by adding sections 8b, 8c, 17, and 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) The department shall maintain a STATEWIDE,
2 ELECTRONIC central registry to carry out the intent of this act.
3 A written report, document, or photograph filed with the depart-
4 ment as provided in this act is a confidential record available
5 only to 1 or more of the following:

6 (a) A legally mandated public or private child protective
7 agency investigating a report of known or suspected child abuse
8 or neglect.

9 (b) A police or other law enforcement agency investigating a
10 report of known or suspected child abuse or neglect.

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1 (c) A physician who is treating a child whom the physician
2 reasonably suspects may be abused or neglected.

3 (d) A person legally authorized to place a child in protec-
4 tive custody when the person is confronted with a child whom the
5 person reasonably suspects may be abused or neglected and the
6 confidential record is necessary to determine whether to place
7 the child in protective custody.

8 (e) A person, agency, or organization, including a multidis-
9 ciplinary case consultation team, authorized to diagnose, care
10 for, treat, or supervise a child or family who is the subject of
11 a report or record under this act, or who is responsible for the
12 child's health or welfare.

13 (f) A person named in the report or record, if the identity
14 of the reporting person is protected as provided in section 5.

15 (g) A court that determines the information is necessary to
16 decide an issue before the court.

17 (h) A grand jury that determines the information is neces-
18 sary in the conduct of the grand jury's official business.

19 (i) A person, agency, or organization engaged in a bona fide
20 research or evaluation project. ~~, except~~ THE PERSON, AGENCY, OR
21 ORGANIZATION SHALL NOT RELEASE information identifying a person
22 named in the report or record ~~shall not be made available~~
23 unless ~~the department has obtained~~ that person's written
24 consent IS OBTAINED. The person, agency, or organization shall
25 not conduct a personal interview with a family without the
26 family's prior consent and shall not disclose information that
27 would identify the child or the child's family or other

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1 identifying information. THE DEPARTMENT DIRECTOR MAY AUTHORIZE
2 THE RELEASE OF INFORMATION TO A PERSON, AGENCY, OR ORGANIZATION
3 DESCRIBED IN THIS SUBDIVISION IF THE RELEASE CONTRIBUTES TO THE
4 PURPOSES OF THIS ACT AND THE PERSON, AGENCY, OR ORGANIZATION HAS
5 APPROPRIATE CONTROLS TO MAINTAIN THE CONFIDENTIALITY OF PERSON-
6 ALLY IDENTIFYING INFORMATION FOR A PERSON NAMED IN A REPORT OR
7 RECORD MADE UNDER THIS ACT.

8 (j) A person appointed as legal counsel as prescribed in
9 section 10.

10 (k) A child placing agency licensed under ~~Act No. 116 of~~
11 ~~the Public Acts of 1973, being sections 722.111 to 722.128 of the~~
12 ~~Michigan Compiled Laws~~ 1973 PA 116, MCL 722.111 TO 722.128, for
13 the purpose of investigating an applicant for adoption, a foster
14 care applicant or licensee or an employee of a foster care appli-
15 cant or licensee, an adult member of an applicant's or licensee's
16 household, or other persons in a foster care or adoptive home who
17 are directly responsible for the care and welfare of children, to
18 determine suitability of a home for adoption or foster care. The
19 child placing agency shall disclose the information to a foster
20 care applicant or licensee under ~~Act No. 116 of the Public Acts~~
21 ~~of 1973~~ 1973 PA 116, MCL 722.111 TO 722.128, or to an applicant
22 for adoption.

23 (l) Juvenile court staff authorized by the court to investi-
24 gate foster care applicants and licensees, employees of foster
25 care applicants and licensees, adult members of the applicant's
26 or licensee's household, and other persons in the home who are
27 directly responsible for the care and welfare of children, for

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1 the purpose of determining the suitability of the home for foster
2 care. The court shall disclose this information to the applicant
3 or licensee.

4 (m) Subject to section 7a, a standing or select committee or
5 appropriations subcommittee of either house of the legislature
6 having jurisdiction over protective services matters for
7 children.

8 (n) The children's ombudsman appointed under the children's
9 ombudsman act, ~~Act No. 204 of the Public Acts of 1994, being~~
10 ~~sections 722.921 to 722.935 of the Michigan Compiled Laws 1994~~
11 PA 204, MCL 722.921 TO 722.935.

12 (o) ~~Child~~ A CHILD fatality review ~~teams~~ TEAM ESTABLISHED
13 UNDER SECTION 7B AND authorized ~~by the department~~ UNDER THAT
14 SECTION to investigate and review A child ~~deaths~~ DEATH. ~~The~~
15 ~~department shall not authorize a child fatality review team to~~
16 ~~investigate and review a child death unless the membership of the~~
17 ~~child fatality review team consists of at least all of the~~
18 following:

19 (i) ~~A county medical examiner or deputy county medical~~
20 ~~examiner.~~

21 (ii) ~~A representative of a local law enforcement agency.~~

22 (iii) ~~A representative of the department.~~

23 (iv) ~~The county prosecuting attorney or his or her~~
24 ~~designee.~~

25 (v) ~~A representative of the department of public health or a~~
26 ~~local health department.~~

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1 (p) A county medical examiner or deputy county medical
2 examiner appointed under ~~Act No. 181 of the Public Acts of 1953,~~
3 ~~being sections 52.201 to 52.216 of the Michigan Compiled Laws~~
4 1953 PA 181, MCL 52.201 TO 52.216, for the purpose of carrying
5 out his or her duties under ~~Act No. 181 of the Public Acts of~~
6 ~~1953~~ THAT ACT.

7 (2) A person or entity to whom ~~a report, document, or~~
8 ~~photograph~~ INFORMATION DESCRIBED IN SUBSECTION (1) is ~~made~~
9 ~~available~~ DISCLOSED shall make the ~~report, document, or~~
10 ~~photograph~~ INFORMATION available only to a person or entity
11 described in subsection (1). This subsection ~~shall not be con-~~
12 ~~strued to~~ DOES NOT require a court proceeding to be closed that
13 otherwise would be open to the public.

14 (3) If a report of suspected child abuse or neglect is sub-
15 stantiated, the department shall maintain a record in the central
16 registry and, within 30 days after the substantiation, shall
17 notify in writing each individual who is named in the record as a
18 perpetrator of the child abuse or neglect. The notice shall set
19 forth the individual's right to request expunction of the record
20 and the right to a hearing if the department refuses the
21 request. The notice shall not identify the person reporting the
22 suspected child abuse or neglect.

23 (4) A person who is the subject of a report or record made
24 under this act may request the department to amend an inaccurate
25 report or record from the central registry and local office
26 file. A person who is the subject of a report or record made
27 under this act may request the department to expunge from the

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1 central registry a report or record in which no relevant and
2 accurate evidence of abuse or neglect is found to exist. A
3 report or record filed in a local office file is not subject to
4 expunction except as the department authorizes, when considered
5 in the best interest of the child.

6 (5) If the department refuses a request for amendment or
7 expunction UNDER SUBSECTION (4), or fails to act within 30 days
8 after receiving the request AS REQUIRED UNDER SUBSECTION (4), the
9 ~~person shall be granted~~ DEPARTMENT SHALL HOLD a hearing to
10 determine by a preponderance of the evidence whether the report
11 or record in whole or in part should be amended or expunged from
12 the central registry on the grounds that the report or record is
13 not relevant or accurate evidence of abuse or neglect. The hear-
14 ing shall be before a hearing officer appointed by the department
15 and shall be conducted pursuant to the administrative procedures
16 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being~~
17 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA
18 306, MCL 24.201 TO 24.328.

19 (6) If the investigation of a report conducted under this
20 act fails to disclose evidence of abuse or neglect, the informa-
21 tion identifying the subject of the report shall be expunged from
22 the central registry. If evidence of abuse or neglect exists,
23 the information identifying the subject of the report shall be
24 expunged when the child alleged to be abused or neglected reaches
25 the age of 18, or 10 years after the report is received by the
26 department, whichever occurs later.

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1 (7) In releasing information under this act, the department
2 shall not include a report compiled by a police agency or other
3 law enforcement agency related to an investigation of suspected
4 child abuse or neglect. This subsection does not prevent the
5 department from including reports of convictions of crimes
6 related to child abuse or neglect.

7 SEC. 8B. IF A CASE SUBSTANTIATED UNDER THIS ACT INVOLVES A
8 CHILD'S DEATH, SERIOUS PHYSICAL INJURY [OF A CHILD, OR
9] SEXUAL ABUSE OR EXPLOITATION OF A CHILD, THE
[DEPARTMENT SHALL REFER THE CASE TO THE] PROSE-
10 CUTING ATTORNEY FOR THE COUNTY IN WHICH THE CHILD IS LOCATED [. THE
PROSECUTING ATTORNEY]
11 SHALL REVIEW THE INVESTIGATION OF THE CASE TO DETERMINE IF THE
12 INVESTIGATION COMPLIED WITH THE [PROTOCOL] ADOPTED AS REQUIRED BY
13 SECTION 8.

14 SEC. 8C. DURING AN INVESTIGATION OF SUSPECTED CHILD ABUSE
15 OR NEGLECT, THE CHILD REPORTED TO HAVE BEEN ABUSED OR NEGLECTED
16 SHALL NOT BE INTERVIEWED IN THE PRESENCE OF AN INDIVIDUAL SUS-
17 PECTED TO HAVE PERPETRATED THE ABUSE.

18 SEC. 17. WITHIN 24 HOURS AFTER THE DEPARTMENT [DETERMINES
19] THAT A CHILD WAS SEVERELY PHYSI-
20 CALLY INJURED AS DEFINED IN SECTION 8 OR SEXUALLY ABUSED, THE
21 DEPARTMENT SHALL SUBMIT A PETITION FOR [AUTHORIZATION BY THE
22 COURT] UNDER SECTION 2(B) OF CHAPTER XIIA OF 1939
23 PA 288, MCL 712A.2.

24 SEC. 18. (1) THE DEPARTMENT SHALL SUBMIT A PETITION [FOR
AUTHORIZATION BY] THE
25 COURT UNDER SECTION 2(B) OF CHAPTER XIIA OF 1939 PA 288, MCL
26 712A.2, IF 1 OR MORE OF THE FOLLOWING APPLY:

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1 (A) THE DEPARTMENT [DETERMINES] THAT A
2 PARENT, GUARDIAN, OR CUSTODIAN, OR A PERSON WHO IS 18 YEARS OF
3 AGE OR OLDER AND WHO RESIDES FOR ANY LENGTH OF TIME IN THE
4 CHILD'S HOME, HAS ABUSED THE CHILD OR A SIBLING OF THE CHILD AND
5 THE ABUSE INCLUDED 1 OR MORE OF THE FOLLOWING:

- 6 (i) ABANDONMENT [OF A YOUNG CHILD].
7 (ii) CRIMINAL SEXUAL CONDUCT INVOLVING PENETRATION,
8 ATTEMPTED PENETRATION, OR ASSAULT WITH INTENT TO PENETRATE.
9 (iii) BATTERING, TORTURE, OR OTHER SEVERE PHYSICAL ABUSE.
10 (iv) LOSS OR SERIOUS IMPAIRMENT OF AN ORGAN OR LIMB.
11 (v) LIFE THREATENING INJURY.
12 (vi) MURDER OR ATTEMPTED MURDER.

13 (B) THE PARENT'S RIGHTS TO ANOTHER CHILD WERE TERMINATED AS
14 A RESULT OF PROCEEDINGS UNDER SECTION 2(B) OF CHAPTER XIIIA OF
15 1939 PA 288, MCL 712A.2, OR A SIMILAR LAW OF ANOTHER STATE.

16 (C) THE PARENT'S RIGHTS TO ANOTHER CHILD WERE VOLUNTARILY
17 TERMINATED FOLLOWING THE INITIATION OF PROCEEDINGS UNDER SECTION
18 2(B) OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.2, OR A SIMILAR LAW
19 OF ANOTHER STATE.

20 (2) IN A PETITION SUBMITTED AS REQUIRED BY SUBSECTION (1),
21 THE FAMILY INDEPENDENCE AGENCY SHALL INCLUDE A REQUEST FOR TERMI-
22 NATION OF PARENTAL RIGHTS AT THE INITIAL DISPOSITIONAL HEARING AS
23 AUTHORIZED UNDER SECTION 19B OF CHAPTER XIIIA OF 1939 PA 288, MCL
24 712A.19B.

25 (3) IF THE DEPARTMENT IS CONSIDERING PETITIONING FOR TERMI-
26 NATION OF PARENTAL RIGHTS AT THE INITIAL DISPOSITIONAL HEARING AS
27 AUTHORIZED UNDER SECTION 19B OF CHAPTER XIIIA OF 1939 PA 288, MCL

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1 712A.19B, EVEN THOUGH THE FACTS OF THE CHILD'S CASE DO NOT
2 REQUIRE DEPARTMENTAL ACTION UNDER SUBSECTION (1), THE DEPARTMENT
3 SHALL HOLD A CONFERENCE AMONG THE APPROPRIATE AGENCY PERSONNEL TO
4 AGREE UPON THE COURSE OF ACTION. THE DEPARTMENT SHALL NOTIFY THE
5 ATTORNEY REPRESENTING THE CHILD OF THE TIME AND PLACE OF THE CON-
6 FERENCE, AND THE ATTORNEY MAY ATTEND. IF AN AGREEMENT IS NOT
7 REACHED AT THIS CONFERENCE, THE DEPARTMENT DIRECTOR OR THE
8 DIRECTOR'S DESIGNEE SHALL RESOLVE THE DISAGREEMENT AFTER CONSULT-
9 ING THE ATTORNEYS REPRESENTING BOTH THE DEPARTMENT AND THE CHILD.

10 Enacting section 1. This amendatory act does not take
11 effect unless all of the following bills of the 89th Legislature
12 are enacted into law:

- 13 (a) Senate Bill No. 490.
14 (b) Senate Bill No. 503.
15 (c) Senate Bill No. 504.